IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 6025 of 1999

For Approval and Signature:

Hon'ble MR.JUSTICE D.H.WAGHELA Sd/-

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

1 to 5 No

DHORAJI NAGAR PALIKA

Versus

KALIDAS CHHANABHAI

Appearance:

MRS SN PAHWA for Petitioner

MR PRABHAKAR UPDHYAY for MR MUKESH H RATHOD for Respondent No. 1

CORAM : MR.JUSTICE D.H.WAGHELA

Date of decision: 18/06/2001

ORAL JUDGEMENT

1. By way of this petition under Articles 226 and 227 of the Constitution, the petitioner challenges the award and order of the Labour Court, Rajkot made on

15.6.1998 in Reference (LCR) No.405 of 1987. The petition appears to have been moved in March 2000 and admitted in June 2000. It is stated at the Bar that in absence of any injunction against the operation of the impugned award, the same is already implemented as far as reinstatement of the respondent was concerned. The challenge now, therefore, is restricted to the part of the impugned award by which 80% backwages is granted. It appears from the impugned award that no finding of fact or any conclusion as regards alternative employment of the respondent is recorded. Nor does the petitioner appear to have led any evidence regarding the alternative employment of the respondent. In these facts, the learned counsel for the respondent fairly conceded that the respondent could not have remained totally unemployed during the entire period after his termination on 27.6.1986 till he was reinstated. Therefore, it was further submitted that the award of backwages may be reduced to 40% and the impugned award may be modified accordingly.

2. Accordingly, the petition is partly allowed and the impugned award is modified to the extent that the respondent shall be entitled to 40% backwages. Rule is made absolute to the aforesaid extent with no order as to costs.

Sd/-

18.6.2001 (D.H.Waghela, J.)

(KMG Thilake)